

REMARKS

Claims 1-7, 9-23, 25-27, 32-43, 45-55, 61-70 and 72-86 were pending when the present Office Action was mailed (September 28, 2006). In this response, claims 1, 19, 40, 61, 72, 75-81, 83 and 84 have been amended and claims 2 and 3 have been cancelled, all without prejudice to pursuing these claims in unamended (or other) form in a continuation or other application. Accordingly, claims 1, 4-7, 9-23, 25-27, 32-43, 45-55, 61-70 and 72-86 are currently pending.

In the September 28, 2006 Office Action, claims 74 and 82 were allowed and the remaining claims were rejected or objected to. More specifically, the status of the application in light of the September 28, 2006 Office Action is as follows:

(A) Claim 77 stands rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,944,497 to Stypulkowski ("Stypulkowski");

(B) Claims 79 and 86 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,938,688 to Schiff ("Schiff");

(C) Claims 19, 20, 22, 23, 25-27, 32, 35-39, and 78 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Schiff or, in the alternative, under 35 U.S.C. § 103(a) as being obvious over Schiff;

(D) Claims 33 and 34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Schiff;

(E) Claims 1-7, 9-12, 14-18, 21, 40-43, 45-47, 49-55, 61-70, 72, 73, 75, 76, 80, 81, and 83-85 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Schiff in view of U.S. Published Application No. 2004/0082847 to McDermott ("McDermott") and an article by Jeffrey Binder, titled "Functional Magnetic Resonance Imaging: Language Mapping," (Neurosurgery Clinics of North America) 8.3:383-392 (1997) ("Binder");

(F) Claims 13 and 48 stand object to as being dependent upon a rejected claim, but were indicated to be allowable if rewritten to be in independent form; and

(G) Claims 74 and 82 are allowed.

The undersigned attorney wishes to thank the Examiner for engaging in a telephone interview on February 12, 2007 to discuss the outstanding claim rejections and the pending claims. During the course of the telephone interview, the undersigned attorney and the Examiner discussed amending claim 1 to clarify that the stimulation site is located proximate to the dura mater and outside a cortical surface of the patient's brain, in the claimed embodiment. As was also discussed during the telephone interview, this approach is less invasive than the techniques discussed in the applied references, which include deep brain stimulation via electrodes that penetrate into the thalamus. Furthermore, stimulation sites positioned proximate to the dura mater and outside the cortical surface of the patient's brain may be more readily identified by the practitioner than deep brain stimulation sites. Accordingly, these sites can be selected with greater accuracy than deep brain sites.

During the course of the telephone interview, the Examiner agreed that the outstanding rejection of claim 1 would be withdrawn, if claim 1 were amended to include the foregoing language. Without commenting on or conceding the merits of the outstanding rejection of claim 1, claim 1 has been amended consistent with the foregoing agreement. The remaining independent claims have been amended to be consistent with this agreement.

Applicants respectfully request that the foregoing and following remarks constitute applicant's Interview Summary. If the Examiner discovers any discrepancies in this regard, she is encouraged to contact the undersigned attorney.

A-E. Response to the Section 102 and 103 Rejections

All the pending claims except claims 13, 48, 74 and 82 were rejected under one or more of Schiff, McDermott, Binder, and Stypulkowski. Without commenting on or

conceding the merits of any of these rejections, and in an effort to expedite prosecution of the present application, pending independent claims 1, 19, 40, 61, 72, 73, 75-81 and 83-86 have been amended to include the language discussed during the February 12, 2007 telephone interview between the undersigned attorney and the Examiner. Accordingly, the outstanding rejections of these claims should be withdrawn for the foregoing reasons and for the additional features of these independent claims.

Claims 2 and 3 have been cancelled, and accordingly the outstanding rejections of these claims are now moot. Claims 4-7, 9-12 and 14-18 depend from claim 1. Accordingly, the outstanding rejections of these claims should be withdrawn for the foregoing reasons and for the additional features of these dependent claims.

Claims 20-23, 25-27, and 32-39 depend from claim 19. Accordingly, the outstanding rejections of these pending claims should be withdrawn for the foregoing reasons and for the additional features of these dependent claims.

Claims 41-43, 45-47 and 49-55 depend from claim 40, and claims 62-70 depend from claim 61. Accordingly, the outstanding rejections of these dependent claims should be withdrawn for the foregoing reasons and for the additional features of these claims.

F. Response to the Objections to Claims 13 and 48

Claims 13 and 48 were objected to as depending from a rejected base claim, but were indicated to be allowable if rewritten to be in independent form. Claim 13 depends from claim 1 and claim 48 depends from claim 40. In view of the foregoing amendments to claims 1 and 48, and in view of the additional features of these dependent claims, the outstanding objections of these claims should be withdrawn.

G. Response to the Indication that Claims 74 and 82 are Allowed

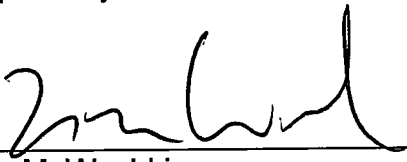
Claims 74 and 82 were allowed and have not been amended in this paper.

H. Conclusion

In light of the foregoing amendments and remarks, all the claims are now in condition for allowance. If the Examiner notices any informalities or other matters that may be expediently handled by telephone, she is encouraged to contact the undersigned attorney by telephone to resolve such matters.

Dated: February 27, 2007

Respectfully submitted,

By 

John M. Wechkin

Registration No.: 42,216

PERKINS COIE LLP

P.O. Box 1247

Seattle, Washington 98111-1247

(206) 359-3257

(206) 359-4257 (Fax)

Attorney for Applicant